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DEPARTMENT OF COMMERCE

International Trade Administration

C-580-884

Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers/exporters of certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea). For information on the subsidy rates, *see* the “Final Determination” section of this notice. The period of investigation is January 1, 2014, through December 31, 2014.

DATES: Effective [Insert date of publication in the *Federal Register*]

FOR FURTHER INFORMATION CONTACT: Katie Marksberry, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-7906.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on January 15, 2016.¹ A summary of events that occurred since the Department published the *Preliminary Determination*,

¹ See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Preliminary Negative Determination and Alignment of Final Determination With Final Antidumping Duty*

as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope of the Investigation

The products covered by this investigation are hot-rolled steel flat products from Korea. For a complete description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix II of this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix I.

Use of Adverse Facts Available

Determination, 81 FR 2172 (January 15, 2016) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² *See* Memorandum to Paul Piquado, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea," dated August 4, 2016 (Issues and Decision Memorandum).

In making this final determination, the Department relied, in part, on facts available and, because POSCO and Hyundai Steel Co., Ltd. (Hyundai Steel) did not act to the best of their ability in responding to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.³ Specifically, we find that the application of adverse facts available is warranted for POSCO for its failure to report certain cross-owned input suppliers, and facilities located in a foreign economic zone (FEZ). We are also applying adverse facts available to POSCO's affiliated trading company, Daewoo International Corporation (DWI)⁴ for certain loans presented at verification. Further, we find that the application of adverse facts available is warranted for Hyundai Steel for its failure to report its location in an FEZ. For further information, *see* the section "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties and the minor corrections presented, and additional items discovered at verification, we made certain changes to the respondents' subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

³ *See* sections 776(a) and (b) of the Act.

⁴ POSCO reported at verification that DWI changed its name to POSCO Daewoo Corporation (PDC) in March 2016. *See* IDM at 6.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for POSCO and Hyundai Steel, the two exporters/producers of subject merchandise selected for individual examination in this investigation.

In accordance with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents with those companies’ export sales of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates calculated for the exporters and producers individually investigated, and any rates determined entirely under section 776 of the Act. Therefore, we have excluded the rate calculated for POSCO because it was determined entirely under section 776 of the Act. Thus, for the “all-others” rate, we applied the rate calculated for Hyundai Steel.

Company	Subsidy Rate
POSCO	57.04 percent
Hyundai Steel Co., Ltd.	3.89 percent
All-Others	3.89 percent

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of public announcement of our final determination, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In the *Preliminary Determination*, the total net countervailable subsidy rates for the individually examined respondents were *de minimis* and, therefore, we did not suspend liquidation of entries of certain hot-rolled steel flat products from the Republic of Korea. However, as the estimated subsidy rates for the examined companies are above *de minimis* in this final determination, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of hot-rolled steel from Korea that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, and to require a cash deposit for such entries of merchandise in the amounts indicated above. The suspension of liquidation will remain in effect until further notice.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and instruct CBP to require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary of Enforcement and Compliance.

Notification Regarding Administrative Protective Orders (APOs)

In the event the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination and notice are issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

August 4, 2016
Date

Appendix I

List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Subsidies Valuation
- VI. Benchmarks and Discount Rates
- VII. Use of Facts Otherwise Available And Adverse Inferences
- VIII. Analysis of Programs
- IX. Analysis of Comments

- Comment 1: Whether the Department Should Apply Adverse Facts Available (AFA) to the Provision of Electricity for Less Than Adequate Remuneration (LTAR)
- Comment 2: Whether the Department Should Find That the Provision of Electricity for LTAR is a Countervailable Subsidy
- Comment 3: Whether the Department Should Use Other submitted Data to Measure the Adequacy of Remuneration of Electricity
- Comment 4: Whether the Department Should Find the Provision of Natural Gas for LTAR Countervailable
- Comment 5: Application of AFA to POSCO and Treatment of POSCO's Unreported Affiliates
- Comment 6: Whether to Apply AFA to POSCO Global Research and Development (R&D) Center
- Comment 7: Whether to Apply AFA to Certain Loans Submitted at Verification
- Comment 8: Whether to Apply AFA to Hyundai Steel for Use of Certain Foreign Economic Zones (FEZs)
- Comment 9: The Department Improperly Countervailed Property Tax Exemptions Received by the Pohang Plant under RSTA 78
- Comment 10: The Department's Methodology For Attributing RSTA Article 22 Benefits Received by Hyundai Corporation to Hyundai Steel Was Incorrect
- Comment 11: Whether Hyundai Steel Should Have Reported Additional ITIPA Grants
- Comment 12: Whether Hyundai Steel Should Have Provided a Questionnaire Response for Hyundai Green Power

- X. Recommendation

Appendix II

SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of thickness, and regardless of form of coil (e.g., in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (e.g., in straight lengths) of a thickness of less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, i.e., products which have been “worked after rolling” (e.g., products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the resulting measurement makes the product covered by the existing antidumping⁵ or countervailing duty⁶ orders on Certain Cut-To-Length Carbon-Quality Steel Plate Products From the Republic of Korea (A-580-836; C-580-837), and

(2) where the width and thickness vary for a specific product (e.g., the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or

⁵ See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea, 65 FR 6585 (February 10, 2000).

⁶ See Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate From India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea, 65 FR 6587 (February 10, 2000).

- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, the substrate for motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes hot-rolled steel that has been further processed in a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the hot-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of these investigations unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Universal mill plates (i.e., hot-rolled, flat-rolled products not in coils that have been rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, of a thickness not less than 4.0 mm, and without patterns in relief);
- Products that have been cold-rolled (cold-reduced) after hot-rolling;⁷
- Ball bearing steels;⁸

⁷ For purposes of this scope exclusion, rolling operations such as a skin pass, levelling, temper rolling or other minor rolling operations after the hot-rolling process for purposes of surface finish, flatness, shape control, or gauge control do not constitute cold-rolling sufficient to meet this exclusion.

⁸ Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor

- Tool steels;⁹ and
- Silico-manganese steels;¹⁰

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under item numbers: 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7208.90.0000, 7210.70.3000, 7211.14.0030, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.11.0000, 7225.19.0000, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.5000, 7226.91.7000, and 7226.91.8000. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.5000, 7226.99.0180, and 7228.60.6000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

⁹ Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

¹⁰ Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

